

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MICHAEL E. ASHBY,

Petitioner,

v.

ALICE PAYNE,

Respondent.

Case No. C05-5416FDB

ORDER GRANTING
PETITIONER'S MOTION FOR
AN EXTENSION OF TIME

This matter is before the court on petitioner's motion for an extension of time to file a response to respondent's answer. After reviewing petitioner's motion and the remaining record, the court orders as follows.

(l) A response (or traverse) to respondent's Answer is not required. As the Advisory Committee Notes to Rule 5 of the Rules Governing § 2254 Cases states:

[T]he traverse tends to be a mere pro forma refutation of the return [Answer], serving little if any expository function. In the interests of a more streamlined and manageable habeas corpus procedure, it is not required except in those instances where it will serve a truly useful purpose.

Here, petitioner requests an extension of time to file a reply to the Answer filed by respondent. Petitioner urges the court to grant time to allow him the opportunity to conduct further legal research. Accordingly, petitioner's motion for an extension of time is **GRANTED with the condition that petitioner shall not merely refute the arguments made in the Answer. Petitioner shall serve and file his response by no later than October 24, 2005.**

(2) **The clerk should set the matter for consideration on the court's October 28, 2005 calendar,** and the Clerk shall direct copies of this Order to petitioner and to counsel for respondent.

DATED this 26th day of September, 2005.

/s/ J. Kelley Arnold
J. Kelley Arnold
United States Magistrate Judge